

07-0305-AD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN PADILLA,

Plaintiff,

-vs-

Case No: 1:07-cv-03638-PKL

MAERSK LINE, LTD.,

Defendant.

STATE OF NEW JERSEY)
)SS
COUNTY OF)

AFFIDAVIT OF JOHN PADILLA

John Padilla, being duly sworn, deposes and says as follows:

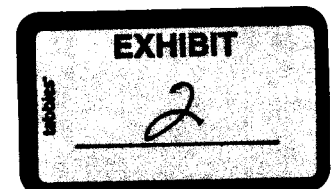
1. Attached hereto is the 2006 Standard Freightship Agreement governing my employment with Maersk Line, Ltd. as a chief cook.
2. On a weekly basis, I was scheduled to perform three hours overtime on Monday through Friday.
3. On Saturday's and Sunday's, I would perform 11 hours overtime on each day, as I would on holidays.
4. My overtime rate from July 1, 2006 and July 1, 2007 was \$21.06 an hour.

John Angel Padilla
John Padilla

Subscribed and sworn to before me this
25 day of Feb, 2008.

Fabio A Gomez
Notary Public

FABIO A. GOMEZ
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 08/07/2011



2006

STANDARD FREIGHTSHIP AGREEMENT

between

SEAFARERS INTERNATIONAL UNION

Atlantic, Gulf, Lakes and Inland Waters District/NMU, AFL-CIO

and

Contracted Companies



June 16, 2006 – June 30, 2011

Overtime Rates shall be paid for all work performed by the Unlicensed Personnel on any of the ten (10) Holidays described in this Agreement at sea or in port.

Any day that is a recognized Holiday for the longshoremen in Continental U.S. ports shall also be a recognized Holiday for the crew while in that particular port.

When a vessel is in Puerto Rico, the following three (3) days, which are recognized as Holidays for longshoremen in Puerto Rico ports, shall also be recognized as Holidays for the Unlicensed Personnel while the vessel is in Puerto Rico.

1. Good Friday
2. July 17th (Munoz Rivera)
3. July 25th (Constitution Day)

SECTION 21. OVERTIME RATES AND PENALTY RATES.

(a) OVERTIME RATES

Deck Department	Effect. 7/1/06	Effect. 7/1/07	Effect. 7/1/08	Effect. 7/1/09	Effect. 7/1/10
Boatswain	25.37	26.13	26.91	27.99	29.11
Carpenter	21.04	21.67	22.32	23.22	24.15
Carpenter Maintenance	19.31	19.89	20.48	21.30	22.16
A.B. Maintenance	19.31	19.89	20.48	21.30	22.16
Quartermaster	18.88	19.45	20.03	20.83	21.66
Able Seaman (Green)	18.31	18.86	19.42	20.20	21.01
Able Seaman (Blue)	15.93	16.41	16.90	17.58	18.28
O.S. Maintenance	13.54	13.94	14.36	14.93	15.53
Ordinary Seaman	13.54	13.94	14.36	14.93	15.53
 Engine Department					
	Effect. 7/1/06	Effect. 7/1/07	Effect. 7/1/08	Effect. 7/1/09	Effect. 7/1/10
Q.M.E.D./Electrician	26.98	27.79	28.62	29.77	30.96
QMED/Electrician Relief	24.74	25.48	26.24	27.29	28.38
Chief Electrician	26.98	27.79	28.62	29.77	30.96
Crane Mtct./Electrician	25.98	26.76	27.56	28.66	29.81
Electrician Reef Mtce.	25.98	26.76	27.56	28.66	29.81
Second Electrician	24.37	25.10	25.85	26.89	27.96
Engine Maint./Electr. Relief	24.37	25.10	25.85	26.89	27.96
Engine Maintenance	24.37	25.10	25.85	26.89	27.96
Eng. Util. Reefer Mtce.	24.37	25.10	25.85	26.89	27.96
Refrigeration Engineer (when one is carried)	24.37	25.10	25.85	26.89	27.96
Refrigeration Engineer (when three is carried)					
Chief	22.33	23.00	23.69	24.64	25.62
First Assistant	21.33	21.97	22.63	23.53	24.47
Second Assistant	20.70	21.32	21.96	22.83	23.75
Q.M.E.D.	0.00	0.00	0.00	0.00	0.00
Class 1	25.37	26.13	26.91	27.99	29.11
Class 2	22.87	23.55	24.26	25.23	26.24

ARTICLE V**STEWARD DEPARTMENT**

SECTION 1. WAGES. The monthly rate of pay for the Unlicensed Personnel in the Steward Department, when the respective ratings are carried, shall be as follows:

WAGES

Steward Department	Effect. 7/1/06	Effect. 7/1/07	Effect. 7/1/08	Effect. 7/1/09	Effect. 7/1/10
Chief Steward	3881.96	3998.42	4118.37	4283.10	4454.43
Steward/Cook	3881.96	3998.42	4118.37	4283.10	4454.43
Steward/Baker	3881.96	3998.42	4118.37	4283.10	4454.43
Chief Cook	3051.76	3143.31	3237.61	3367.11	3501.80
Cook & Baker	2974.28	3063.51	3155.41	3281.63	3412.89
Second Cook	2614.02	2692.44	2773.21	2884.14	2999.50
Third Cook	2578.68	2656.04	2735.72	2845.15	2958.96
Asst. Cook/Utility	2578.68	2656.04	2735.72	2845.15	2958.96
Steward Assistant	2027.35	2088.17	2150.82	2236.85	2326.32

On freighters when passengers are carried, the Third Cook will be re-rated as Second and will be paid wages in accordance with the agreement.

SECTION 2. MINIMUM OVERTIME. At sea, when any member of the Steward Department is called out to work between the hours of 7:30 p.m. and 5:30 a.m., a minimum of two (2) hours overtime shall be paid.

SECTION 3. HOURS OF WORK. (a) No member of the Steward Department shall be required to work in excess of eight (8) hours in any one (1) day without the payment of overtime.

(b) Any work required to be performed outside his regular hours, or on Saturdays, Sundays and Holidays, shall be paid for at the applicable overtime rate.

(c) By mutual agreement between the Union and the Company, the "Three Man Guide" shall be utilized aboard those vessels with three (3) persons in the department.

SECTION 4. WORKING HOURS.

Steward	-eight (8) hours between 6:30 a.m. and 6:30 p.m.
Chief Cook	-eight (8) hours between 6:30 a.m. and 6:30 p.m.
Cook and Baker	-eight (8) hours between 6:00 a.m. and 6:00 p.m.
Second Cook	-7:00 a.m. to 1:00 p.m. - 4:00 p.m. to 6:00 p.m.
Third Cook	-7:00 a.m. to 1:00 p.m. - 4:00 p.m. to 6:00 p.m.
Messman	-6:30 a.m. to 9:30 a.m. - 10:30 a.m. to 1:00 p.m. - 4:00 p.m. to 6:30 p.m.
Stwd.Utilityman	-7:00 a.m. to 1:00 p.m. - 4:00 p.m. to 6:00 p.m.
Galley Utility	-6:30 a.m. to 10:00 a.m. - 11:00 a.m. to 1:00 p.m. - 4:00 p.m. to 6:30 p.m.

SECTION 5. VESSELS USING PORTION CONTROL PROVISIONS.

(a) Hours of Duties.

1. Except as otherwise specified, the Chief Steward, Steward/Baker or Steward/Cook shall assign the duties of each and every member in the Steward Department and shall work with and assist the Chief Cook in the preparation and serving of all meals and maintenance and cleanliness of the galley. All Steward Department personnel excluding the Chief Steward, Steward/Baker or Steward/Cook shall work between the hours of 6:30 a.m. and 6:30 p.m.

2. When a Steward/Baker is carried, his spread of hours shall be eight (8) hours between 6:00 a.m. and 6:30 p.m.

Class 3	20.83	21.45	22.10	22.98	23.90
Class 4	18.79	19.35	19.93	20.73	21.56
Plumber Machinist	22.35	23.02	23.71	24.66	25.64
Unlicensed Jr. Engr. (Day)	21.33	21.97	22.63	23.53	24.47
Unlicensed Jr. Engr.(Watch)	19.23	19.80	20.40	21.21	22.06
Deck Engineer	21.65	22.30	22.97	23.89	24.85
Engine Utility	21.00	21.63	22.28	23.17	24.10
Evaporator/Mtce.	17.92	18.46	19.01	19.77	20.56
Oiler	16.90	17.41	17.93	18.65	19.39
Oiler (disel)	18.19	18.73	19.29	20.07	20.87
Watertender	16.90	17.41	17.93	18.65	19.39
Fireman/Watertender	16.90	17.41	17.93	18.65	19.39
Fireman	15.01	15.46	15.93	16.57	17.23
Wiper	15.72	16.19	16.68	17.34	18.04
Ship's Welder Mtce.	20.70	21.32	21.96	22.83	23.75
Oiler/Mtce. Utility	18.86	19.43	20.01	20.81	21.64
Gen. Utility/Deck Eng.	15.84	16.32	16.81	17.48	18.18
General Vessels Assistant	15.84	16.32	16.81	17.48	18.18
Steward Department	Effect.	Effect.	Effect.	Effect.	Effect.
	7/1/06	7/1/07	7/1/08	7/1/09	7/1/10
Chief Steward	25.37	26.13	26.91	27.99	29.11
Steward/Cook	25.37	26.13	26.91	27.99	29.11
Steward/Baker	25.37	26.13	26.91	27.99	29.11
Chief Cook	21.06	21.69	22.35	23.24	24.17
Cook & Baker	19.05	19.63	20.21	21.02	21.86
Second Cook	16.56	17.06	17.57	18.28	19.01
Third Cook	16.56	17.06	17.57	18.28	19.01
Asst. Cook/Utility	16.56	17.06	17.57	18.28	19.01
Steward Assistant	13.55	13.95	14.37	14.95	15.54

Except as otherwise provided, the rates set forth above shall be paid for all work in excess of eight (8) hours Monday through Friday and anytime Saturdays, Sundays or Holidays. It is further agreed that the Company shall offer to all Deck and Engine Unlicensed Personnel possessing a Group I Rating, a minimum of eight (8) hours every Saturday, Sunday and Holiday whether at sea or in port.

(b) PENALTY RATES

(b) 1.

	Effect.	Effect.	Effect.	Effect.	Effect.
	7/1/06	7/1/07	7/1/08	7/1/09	7/1/10
ON WATCH, Monday through Friday					
Group I	8.82	9.09	9.36	9.64	9.93
Group II	6.78	6.99	7.20	7.41	7.63
Group III	5.36	5.52	5.68	5.85	6.03

3. Cook and Baker
(when carried) 6:00 a.m. to 9:30 a.m.
11:00 a.m. to 1:00 p.m.
4:00 p.m. to 6:30 p.m.

Additional duties of the Cook and Baker shall be to prepare, cook and serve all vegetables for dinner and supper meals, scrub the galley after the supper meal with the assistance of a Steward Assistant, prepare night lunches and cooked salads.

4. Steward Assistant
(Saloon) 6:30 a.m. to 9:30 a.m.
10:30 a.m. to 1:00 p.m.
4:00 p.m. to 6:30 p.m.

Prepare salads except cooked, and all cold drinks used by him, draw supplies as needed.

5. Steward Assistant
(Crew) 6:30 a.m. to 9:30 a.m.
10:30 a.m. to 1:00 p.m.
4:00 p.m. to 6:30 p.m.

Prepare salads except cooked salads.

6. Steward Assistant
(Utilities) 6:30 a.m. to 9:30 a.m.
10:30 a.m. to 1:00 p.m.
4:00 p.m. to 6:30 p.m.

On vessels carrying Steward Assistant Utilities, the Chief Steward shall assign their duties.

7. Assistant Cook/Utility

His routine duties shall be to assist in the galley when required and to perform such other duties as are assigned to him by the Chief Steward. His eight (8) working hours shall be as designated by the Chief Steward between 6:30 a.m. and 6:30 p.m.

8. 3- Man Steward Departments

The Steward Baker's normal day shall consist of eight (8) hours, commencing at 0530 hours and terminating at 1830 hours. Three (3) additional hours shall be offered daily to perform such work as may be necessary outside the normal work schedule. The three (3) additional hours are not to be considered as "blanket overtime". The three (3) hours are payable for specific duties performed. Any work to be performed in excess of the three (3) additional hours must be authorized by the ship's master.

Specifically:

1. The Steward Baker will be offered 3 hours of overtime each day. He/She needs to do actual work that the Master concurs needs to be done on OT during these 3 hours or the portion of these 3 hours actually worked.
2. The Steward Baker will be paid for OT actually worked. If a 10 hour day is worked he/she will be paid for the normal 8 hours plus 2 hours of OT.
3. Each instance of OT beyond the 3 hours must be specifically approved in advance by the Master.

4- Man Steward Departments

The Steward Baker's normal day shall consist of eight (8) hours, commencing at 0530 hours and terminating at 1830 hours. Two (2) additional hours shall be offered daily to perform such work as may be necessary outside the normal work schedule. The two (2) additional hours are not to be considered as "blanket overtime". The two (2) hours are payable for specific duties performed. Any work to be performed in excess of the two (2) additional hours must be authorized by the ship's master.

Specifically:

1. The Steward Baker will be offered 2 hours of overtime each day. He/She needs to do actual work that the Master concurs needs to be done on OT during these 2 hours or the portion of these 2 hours actually worked.
2. The Steward Baker will be paid for OT actually worked. If a 9 hour day is worked he/she will be paid for the normal 8 hours plus 1 hour of OT.
3. Each instance of OT beyond the 2 hours must be specifically approved in advance by the Master.